

## ORDINANCE NO. 1226

### AN ORDINANCE IMPLEMENTING REFERRED MEASURE 2E OF THE 2018 SPECIAL ELECTION OF THE CITY OF FORT MORGAN REDESIGNATING THE CHIEF OF POLICE, OR EQUIVALENT TITLED POSITION, FROM A DIRECTOR REPORTING TO THE CITY MANAGER TO AN APPOINTED OFFICIAL REPORTING DIRECTLY TO CITY COUNCIL

**WHEREAS**, pursuant to City of Fort Morgan ordinance 1218, the electorate of the City of Fort Morgan was asked the following question:

SHALL THE CITY OF FORT MORGAN CHARTER BE AMENDED TO  
REDESIGNATE THE CHIEF OF POLICE, OR EQUIVALENT TITLED  
POSITION, FROM A DIRECTOR REPORTING TO THE CITY MANAGER TO  
AN APPOINTED OFFICIAL REPORTING DIRECTLY TO THE CITY COUNCIL;  
and,

**WHEREAS**, that ballot measure (2E) was passed by a majority of the electorate of the City of Fort Morgan; and,

**WHEREAS**, the language for the adopted change was not previously included in the referendum and it is therefore incumbent upon the City Council to determine the language needed to effectively enact the change in the charter and form of governance of the City of Fort Morgan in a way that effectuates the intent of the electorate; and,

**WHEREAS**, for the sake of simplicity and to establish proper legislative history, be it known that any reference in this Ordinance to "Chief of Police" is intended to include any other equivalent titled position; and,

**WHEREAS**, the language below will set forth the changes in the Charter required by the passage of 2E with strikethrough language being removed and language in all caps and underlined being added.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN,**

**Section 1. Article 1 Section 3 of the Fort Morgan Charter is hereby amended as follows:**

ARTICLE 1 – Name, Boundaries, Rights, Powers, Liabilities, Form of Government

Sec. 3. - Form of government.

The municipal government provided by this charter shall be known as a MODIFIED council-manager government.

**Section 2. Article IV Section 4 subsection (d) subpart (6) of the Fort Morgan Charter is hereby amended as follows:**

ARTICLE IV – The Mayor and the Council

Sec. 4. - Powers.

(d) Without limiting the generality of the foregoing, the City, acting through the council, shall have power to:

(6) Appoint and remove a city manager, A CHIEF OF POLICE, a city attorney, and a municipal judge and deputy municipal judges, in the manner provided in this Charter. In addition to these appointed officials the volunteer fire chief, who is selected and removed according to the fire department bylaws shall report to city council until such time that city council by ordinance requires the fire department be placed under the supervision of the city manager;

**Section 3. Article V Section 4 subsections (a), (b), (c), and (f) of the Fort Morgan Charter are hereby amended as follows:**

ARTICLE V - City Administration

Sec. 4. - Powers and responsibilities of manager.

The city manager shall be the chief administrative officer of the City. The city manager shall have the following powers and responsibilities:

(a) Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts, and other enactments of the City AS DIRECTED BY CITY COUNCIL.

(b) Establish and implement personnel rules and regulations for ALL City employees.

(c) Cause a proposed CITY WIDE budget to be prepared and submitted to the council annually, and be responsible for the administration of the adopted budget.

(d) Cause to be prepared and submitted to the city council, as of the end of the fiscal year, a complete report on finances and administrative activities of the City for that year, and make other reports as requested by the council concerning the matters of the City in the manager's charge.

(e) Keep the city council advised of the financial condition and future needs of the City.

(f) Except as otherwise required by this Charter, establish a chain of command and, through that chain of command, exercise management and control over all City departments, WITH THE EXCEPTION OF THE

CITY ATTORNEY'S OFFICE, POLICE DEPARTMENT, AND FIRE DEPARTMENT, including the selection and removal of department heads. However, notwithstanding the foregoing, city council has the authority to assign and remove the city's fire department to the direction of the city manager as it deems necessary.

- (1) At the time the fire chief and firefighters are under the authority of the city council, they shall be selected by the members of said department pursuant to bylaws established by the department, and shall be subject to removal by said members pursuant to said bylaws or any process established by city council;
- (2) Unless otherwise provided by ordinance, the fire chief shall report to the council and not to the manager; and
- (3) Unless otherwise provided by ordinance, the supervision of any paid employees of said department shall be exercised by the fire chief and subject to city council oversight, but such employees, and their selection and removal, shall be subject to personnel enactments generally applicable to City employees.

- (g) Make recommendations to the city council concerning the establishment, consolidation or abolition of such departments; but any such establishment, consolidation, or abolition shall be done by ordinance.
- (h) Attend council meetings and participate in discussions with the council in an advisory capacity.
- (i) Be responsible for informing the public on City functions and activities.
- (j) Perform such other duties as prescribed by this Charter, or as required by the council and not inconsistent with this Charter.

**Section 4. Article V Section 5 of the Fort Morgan Charter is hereby amended as follows:**

Sec. 5. - Council's relationship to employees.

- (a) Neither the council, nor any member of the council, shall dictate or interfere with the appointment of, or the duties of, any City employee subordinate to the city manager, CHIEF OF POLICE, or to the city attorney, or prevent or interfere with the exercise of judgment in the performance of the employee's City responsibilities. The council, and each member of the council, shall deal with such employees solely through the manager, CHIEF OF POLICE, or the city attorney, as applicable, and shall not give orders or reprimands to any such employee.

(b) The city manager alone shall be responsible to the council for the proper administration of all matters placed in the manager's charge by or pursuant to this Charter.

**Section 5. Article XI of the Fort Morgan Charter is hereby amended in its title, language in Section 1 subsections (d) and (e), and with the addition of a Section 3 as follows:**

**ARTICLE XI – Legal, and Judiciary, AND POLICE DEPARTMENT**

Sec. 1. - City attorney.

(a) The council shall appoint a city attorney to serve at the pleasure of the council.

(b) The council shall establish the city attorney's compensation.

(c) The city attorney shall be, at all times while serving as city attorney, an attorney at law admitted to practice in Colorado.

(d) The city attorney shall serve as the chief legal advisor for the City, shall advise the council, the city manager, THE CHIEF OF POLICE, and other city personnel in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the council.

(e) Recognizing that the city attorney's ethical responsibilities extend to employees subordinate to the city attorney, such employees and their selection and removal shall be subject to personnel enactments generally applicable to ALL City employees, but supervision and control over such employees, including the selection and removal of such employees, shall be exercised by the city attorney.

(f) The council shall evaluate the city attorney's performance at least annually.

(g) The council may employ such special counsel as may be recommended by the city attorney, or the council.

**SEC. 3. POLICE DEPARTMENT**

(A) THE CHIEF OF POLICE, OR EQUIVALENT TITLED POSITION, SHALL BE AN APPOINTED OFFICIAL REPORTING DIRECTLY TO CITY COUNCIL, WHO SERVES AT THE PLEASURE OF THE COUNCIL.

(B) THE CHIEF OF POLICE SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF ORDINANCES, RESOLUTIONS, AND OTHER ENACTMENTS OF THE CITY AS DIRECTED BY CITY COUNCIL.

(C) CITY COUNCIL SHALL ESTABLISH COMPENSATION AND SHALL EVALUATE THE CHIEF OF POLICE'S PERFORMANCE AT LEAST ANNUALLY.

(D) THE CHIEF OF POLICE ALONE SHALL BE RESPONSIBLE TO THE COUNCIL FOR THE PROPER ADMINISTRATION OF ALL MATTERS PLACED IN THE CHIEF OF POLICE'S CHARGE BY OR PURSUANT TO THIS CHARTER.

(E) POLICE DEPARTMENT EMPLOYEES AND THEIR SELECTION AND REMOVAL SHALL BE SUBJECT TO PERSONNEL ENACTMENTS APPLICABLE TO ALL CITY EMPLOYEES, BUT SUPERVISION AND CONTROL OVER SUCH EMPLOYEES, INCLUDING THE SELECTION AND REMOVAL OF SUCH EMPLOYEES, SHALL BE EXERCISED BY THE CHIEF OF POLICE.

**Section 6. Validity.** If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts be declared invalid.

**Section 7. Repeal.** All or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 8. Interpretation.** This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section thereof.

**Section 9. Certification.** The City Clerk shall certify to the passage of this Ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

**Section 10. Severability.** In the event any part of this Ordinance is found to be unenforceable by a Court of competent jurisdiction, it shall not affect the enforceability of the other portions of the Ordinance.

**Section 11. Effective date.** The City Council hereby finds, determines, and declares that this ordinance is necessary for the preservation of the public peace, health, and safety and to implement the will of the Fort Morgan electorate. The City Council also hereby finds that a specific date of effectiveness will assist in the operations of the City

and therefore, this change shall be effective five (5) days after final publication of this ordinance, or upon April 1, 2019, whichever is later.

**INTRODUCED, READ, ADOPTED ON FIRST READING AND ORDERED  
PUBLISHED** on the 5th day of March, 2019.



THE CITY COUNCIL OF THE CITY OF FORT  
MORGAN, COLORADO

  
By: Ronald Shaver  
Mayor

Attest:

  
John Brennan  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED  
PUBLISHED this 19<sup>th</sup> day of March, 2019.



THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

  
By: Ronald Shaver  
Mayor

Attest:

  
John Brennan  
City Clerk

STATE OF COLORADO )  
COUNTY OF MORGAN )ss.  
CITY OF FORT MORGAN )

**CERTIFICATE**

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing **Ordinance No. 1226** was, as a proposed

Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 19th day of February, 2019, and again on the 5<sup>th</sup> day of March, 2019. Said ordinance, as proposed, was duly read at length at said meetings, and thereafter the same was, on the 22<sup>nd</sup> day of February and again on the 8<sup>th</sup> day of March, 2019, published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed ordinance was again taken up and read a second time, duly and legally, passed, approved and adopted at a regular meeting of the City Council held on the 19th day of March, 2019. Within five (5) days after its final passage, said **Ordinance No. 1226** was published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.



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John Brennan  
City Clerk